

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,

Plaintiff,

v.

D'ANDRE LAMPKINS,

Defendant.

Case No. 93-cr-40050-JPG

**MEMORANDUM AND ORDER**

This matter comes before the Court on consideration of defendant D'Andre Lampkins' motion for leave to proceed *in forma pauperis* on appeal (Doc. 207). A federal court may permit a party to proceed on appeal without full pre-payment of fees provided the party is indigent and the appeal is taken in good faith. 28 U.S.C. § 1915(a)(1) & (3); Fed. R. App. P. 24(a)(3)(A). A frivolous appeal cannot be made in good faith. *Lee v. Clinton*, 209 F.3d 1025, 1026-27 (7th Cir. 2000). The test for determining if an appeal is in good faith or not frivolous is whether any of the legal points are reasonably arguable on their merits. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989) (citing *Anders v. California*, 386 U.S. 738 (1967)); *Walker v. O'Brien*, 216 F.3d 626, 632 (7th Cir. 2000).

The Court is satisfied from Lampkins' affidavit that he is indigent. The Court further finds that it is reasonably arguable on the merits that the Court's relevant conduct range finding at Lampkins' sentencing leaves room for a specific relevant conduct finding other than 1.1 kilograms of crack cocaine in Lampkins' sentence reduction proceedings. Accordingly, the Court finds Lampkins' appeal is taken in good faith, **GRANTS** Lampkins' motion for leave to proceed *in forma pauperis* on appeal (Doc. 207) and **DIRECTS** the Clerk of Court to send this order to the Court of Appeals in connection with Appeal No. 12-1239.

**IT IS SO ORDERED.**

**DATED: February 21, 2012**

s/ J. Phil Gilbert  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**